

REMARKS

Applicants thank Examiner Davis and Examiner Tate for their time and their consideration of the present application during the telephonic interview of March 3, 2009 with the undersigned.

During the interview, the applied reference and the claims as now amended were discussed. The Examiners stated that this amendment to the claims would require further consideration and/or search.

Thus, a Request for Continued Examination is filed along with this amendment.

The present application is now believed to be in condition for allowance.

Status of the Claims

Claims 1 and 22 are amended. Support for the amendment may be found, for example, at page 2, lines 15-25 and the Examples.

Claim 2 is also amended, and it is respectfully noted that lines 15-18 read in light of lines 9-14 support the amendment to claim 2.

Claims 1-22 remain pending, and claims 14 and 15 remain withdrawn for being directed to a non-elected species.

The status identifiers for claims 14 and 15 have been changed to "withdrawn", as these claims are directed to non elected species. Applicants understand, however, that an election

of species requirement is for search purposes only. Upon allowance of the generic claim 1, Applicants understand that they will be entitled to consideration of the claims to the species of the withdrawn claims which are written in dependent form and include all of the limitations of the generic claim 1, as provided by 37 CFR 1.141.

Claim Rejections-35 USC §103

Claims 1-14, 17-19, and 22 were rejected under 35 USC 103(a) as allegedly being unpatentable over CASTELLI et al. US 7,008,627 ("CASTELLI") in view of KOCH et al. US 7,166,310 ("KOCH") in view of BOMBARDELLI et al. US 6,419,950 ("BOMBARDELLI") in view of TAMEMOTO et al. ("TAMEMOTO"). This rejection is respectfully traversed.

The independent claims 1 and 22 describe compositions that include effective amounts of three components a) to c), including Ginkgo bilboa terpenes. As stated in the present specification at page 2, lines 21-23, and now claimed in the independent claims, "'Ginkgo biloba terpenes' herein means the terpenes, either pure or in a mixture wherein the total triterpenes content ranges from 60 to 100%". That is, the claims include either pure Ginkgo biloba terpenes or a mixture that includes a triterpenes content ranging from 60 to 100%. Claim 22 treats atopic dermatitis, skin allergic conditions and acne by administering such a composition. Claim 2, which depends from

claim 1, further defines the effective amounts of components a) to c).

The Official Action offered CASTELLI for beneficially teaching extracts obtained from *Gingko biloba* leaves which include terpenes, and that the extracts have excellent anti-inflammatory activity.

However, CASTELLI fails to disclose or suggest that for which it is offered.

CASTELLI envisages the use of a *Gingko biloba* extract with a reduced content in terpenes, namely in the range between 7% and the almost complete absence "less than 1% w/w of the extract" (the definition "less than 1%" including the complete absence thereof).

Accordingly, CASTELLI fails to disclose or suggest the use of "pure" *Gingko biloba* terpenes as recited in the independent claims. Moreover, there is no suggestion of purifying the at least less than 7% terpenes from the *Gingko biloba* extract and forming a composition comprising the pure terpenes.

CASTELLI also fails to suggest *Gingko biloba* terpenes in form of a "mixture wherein the total triterpenes content ranges from 60 to 100%" as recited in the independent claims. Even if one were to consider the *Gingko biloba* extract of CASTELLI a "mixture" including terpenes, there is no suggestion of the total triperpenes being 60-100%. Indeed, at best,

CASTELLI suggests less than approximately 7% terpenes, and even may include less than 1%.

Thus, contrary to the meaning of the claimed Gingko biloba terpenes, CASTELLI practically envisages a complete absence of the terpene fraction in the *Gingko biloba* extract, and suggests that the terpene fraction is irrelevant to the described activity. Indeed, this evidenced by the fact that CASTELLI discloses that the extracts include at least 24% of the flavone fraction. See, e.g., column 4, lines 41-67.

Furthermore, CASTELLI fails to suggest the terpene concentration of 0.1 to 2% as recited in claim 2. The only amount of *Gingko biloba* suggested by CASTELLI is found in the examples, which solely utilize only 0.1% of *Gingko biloba* extract. Accordingly, the 0.1% extract of these examples contains 0 to 7% of terpenes, which results in a composition having an amount of terpenes that is exceedingly lower than the content according to the claim 2.

KOCH was offered for topical medicaments comprising *Hypericum perforatum* L. having a hyperforin content of 2% to 4%.

BOMBARDELLI was offered for teaching an extract of a pericarp of *Zanthoxylum bungeanum*.

TAMEMOTO was offered for teaching ethyl acetate extracts of air dried fruits of *Ferula kuhistanica* exhibit antibacterial activity.

However, regardless of the ability of these documents to teach that for which they are offered, they fail to remedy the shortcomings of CASTELLI for reference purposes. None of these documents disclose or suggest (1) the recited *Gingko biloba* terpenes, either pure or as mixture of 60-100% total triterpenes or (2) treatment of atopic dermatitis, skin allergic conditions and acne by administering an effective amount of a medicament comprising the claimed *Gingko biloba* terpenes.

Therefore, withdrawal of the rejection is respectfully requested.

Claims 20-21 were rejected under 35 USC 103(a) as allegedly being unpatentable over CASTELLI in view of KOCH in view of BOMBARDELLI in view of TAMEMOTO, further in view of PARRINELLO US 5,578,312 ("PARRINELLO") and LUPULET. This rejection is respectfully traversed.

CASTELLI, KOCH, BOMBARDELLI, and TAMEMOTO are offered for the reasons discussed above.

PARRINELLO is offered for teaching evening primrose and lauric acid in a skin composition.

LUPULET is offered for teaching *Oenothera biennis* oil as an ingredient in a skin composition.

However, regardless of the ability of PARRINELLO and LUPULET for teaching that for which they offered, they fail to remedy the shortcomings of the combination of CASTELLI, KOCH, BOMBARDELLI, and TAMEMOTO discussed above. Neither PARRINELLO

nor LUPULET discloses *Gingko biloba* terpenes as defined in claim 1 for a topical composition.

Conclusion

In view of the amendment to the claims and the foregoing remarks, this application is in condition for allowance at the time of the next Official Action. Allowance and passage to issue on that basis is respectfully requested.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our credit card which is being paid online simultaneously herewith for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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